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Models for a State Historic Preservation Program

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Executive Summary

This CRB Note briefly describes several models for creating a state historic preservation trust or conservancy program. It summarizes the structures and functions of the historic preservation programs in the states of Washington, Florida, Vermont, Utah, and New Mexico. Each state has a program to fulfill the requirements of federal historic preservation law. Some have created another organization, either a quasi-public agency or a stand-alone non-profit agency, to carry out other cultural resource preservation programs using some mixture of public and private funding.

This Note also looks at three “trust” models for historic preservation. It describes the British National Trust (a private charity) and the National Trust for Historic Preservation (a non-profit organization created by Congress). It also describes the New Jersey Historic Trust, which is a non-profit organization created by state law and funded with public money. The New Jersey Trust is part of a constitutionally-mandated program of open space, agricultural lands, and historic resource conservation.

One California agency could be a model for a cultural and historic preservation entity. The Coastal Conservancy is a well-regarded independent board within the Resources Agency, whose structure could be adapted to serve as a trust for preserving cultural and historic resources.

Issues to consider in developing a new approach for preserving California’s historic resources include the location and structure of the new entity, and restraints on the use of public money.

- A first question is whether to create a stand-alone public or quasi-public organization, such as a trust, or whether to attach it to an existing agency or department. A stand-alone organization would arguably give historic preservation a higher visibility and presence, have fewer constraints on how it carries out its programs, and might be better able to engage with agencies, private organizations, and non-profits in innovative approaches, such as preservation easements, planned giving, and partnerships with private landowners. Depending on how it is structured and funded, a stand-alone organization could be more or less controlled by the Governor or the Legislature. As an alternative, a Trust or Office of historic preservation could be attached more or less tightly to an existing government body, such as the State Library or the Resources Agency.
- A second consideration is the administrative structure of the new organization. An organization affiliated with an existing department or agency might be able to share some administrative functions, and thereby reduce operating costs. On the other hand, the Coastal Conservancy demonstrates that a small, administratively self-sufficient organization can act quickly and be very creative.
- Third, there are constraints in California law against giving control over taxing, and perhaps spending, to private or quasi-private entities. A 1996 California Court

of Appeals decision (the “Fresno” decision) determined that a local authority, created by the Legislature, could not levy taxes to be used for cultural resource programs.

1. SUMMARY OF STATE PROGRAMS

Like California, Washington placed its Historic Preservation Office within a department of a cabinet-level agency. However, the state also created a quasi-public Historical Society, that uses a mixture of public and private funds to acquire properties and collections, run museums, conduct education programs, raise money, and award grants (using public money).

Florida also has a similar structure as California for the location of its historic preservation program. Unlike California, Florida has expanded its efforts to create interesting programs like the Florida Folk Life program, Heritage Tourism, and various grant programs. The state spends more than \$30 million annually on historic resources.

Vermont also placed its historic preservation office within a department within an agency. At the same time, they have an interesting stand-alone Vermont Housing and Conservation Board, which uses private and public money to develop low-income housing, preserve open space and farmland, and preserve historic structures.

New Mexico’s historic preservation program is housed within an agency with a broad focus on all aspects of cultural affairs. Although the historic preservation budget is small, New Mexico is noteworthy for its cultural museums and emphasis on archaeological resource preservation.

Utah’s Historic Preservation Division is also housed in an agency that covers arts and cultural affairs in the state. Utah’s State Historical Society is a separate non-profit organization that is housed within the Division but receives no public money.

2. SUMMARY OF TRUST MODELS

The British National Trust is completely separate from government, relying on memberships, donations, and revenues from Trust-owned shops, restaurants, and hotels. The Trust has statutory authority to declare land “inalienable,” which means that it cannot be voluntarily sold, mortgaged, or purchased against the Trust’s wishes without a special Parliamentary procedure. Second, the National Trust for Historic Preservation, created by Congress, is a non-profit organization that promotes preservation through education, outreach, partnerships with landowners, and acquisition of National Trust Historic Sites. Last, the New Jersey Historic Trust is an independent public agency under the umbrella of an independent statewide trust for preservation that was created by a constitutional amendment. The Trust has a 10-year program for historic preservation grants and a revolving loan program.

Models for Cultural and Historic Resource Preservation

In thinking about how California should preserve its cultural heritage, it is useful to look at what other states and countries have done. Other states have created a variety of public and quasi-public organizations, including museums, historical societies, and cultural centers, to carry out cultural preservation programs. In the United Kingdom, the British National Trust, a non-profit organization, acquires historic properties and makes them open to the public.

Most states have historic preservation programs that comply with the National Historic Preservation Act (16 USC Section 470). The Act provides for grants to states from the federal Historic Preservation Fund to support historic preservation programs and projects. The Act requires that at least 10 percent of each state's grant be transferred to certified local governments that apply for the money. The National Parks Service maintains a National Register of Historic Places. State Historic Preservation Officers (SHPOs) run the programs that comply with federal requirements, including conducting surveys of historic resources, developing statewide historic preservation plans, and nominating archaeological and historic sites and districts to the National Register. Once on the National Register, properties are eligible for federal financial assistance and regulatory protection.

The activities associated with the National Historic Preservation Act form the backbone of most state programs. These mainly regulatory programs establish standards for historic and archaeological preservation to which state and federal agencies must adhere. The SHPOs (with the input of Advisory Committees) are responsible for determining whether nominated sites meet the standards for listing, as well as reviewing state and federal projects for deleterious impacts on listed sites.

States vary widely in the extent of their non-regulatory historic preservation programs. Some simply carry out the national program, while others also have advisory boards and historical societies to carry out cultural programs specific to their state. Some, such as Florida and Utah, have created broad cultural affairs programs to preserve and enhance the state's folk life, heritage, and unique culture. Vermont has taken the unique approach of combining grant programs for affordable housing, agricultural preservation, open space protection, and historic preservation in one agency. New Jersey has created a statewide trust to preserve open space, agricultural lands, and historic resources. It also has a separate state Historic Trust.

This Note summarizes the structure and functions of the historical resource preservation programs of the States of Washington, Utah, Florida, New Mexico, and Vermont. It includes each state's population and per capita income, as of 1999, and the size of its historic preservation budget. It also reviews three "trust" models: the British National Trust for Preservation, the National Trust for Historic Preservation, and the New Jersey Historic Trust. Last, the Note summarizes the structure and function of the California Coastal Conservancy.

1. CALIFORNIA

For comparison purposes, the following summarizes California's historic preservation program:

- California's 1999 population was 33,872,000;
- Per capita income was \$29,819;
- California's Office of Historic Preservation (OHP) has a budget of \$1.5 million (\$1.1 million in federal grant; \$400,000 from the General Fund) in 2001-02. Ten percent of the federal grant will be passed through to certified local governments;
- OHP is accepting applications for grants for historic preservation in the amount of \$8.5 million from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000. Eligible projects are sites nominated for or listed in the National Register of historic places or the state register, California registered landmarks, or California Points of Historical Interest. A 50 percent match is required.

Howard Jarvis Taxpayers' Association v. Fresno Metropolitan Projects Authority.

In considering a new structure for California's historic preservation efforts, bear in mind the Fresno decision (40 Cal. App. 4th 1359 (1995)). In that decision, a California appellate court struck down the state law^{*} that created the Fresno Metropolitan Projects Authority, which was to develop a cultural resource program for the community of Fresno. The Authority consisted of a 13-member board of directors representing various local entities and organizations, and was essentially a group of private parties. The appellate court found that the Authority could not lawfully levy a tax and spend the revenues on cultural resources projects. The Court found that the law creating the Authority violated Article XI, section 11 of the California constitution. That Article prohibits the legislature from delegating its power to levy taxes to a private body. Consequently, the tax was unconstitutional even though it was approved by a majority of the voters in Fresno.

2. WASHINGTON

The State of Washington carries out its historic preservation programs through two state historical societies and the Office of Archaeology and Historic Preservation.

State Population: 5,894,000

Per Capita Income: \$30,295

^{*} California Government Code Section 68056 et seq.

Annual Historic Preservation Program Budget:

Washington Historical Society – \$7 million every two years;

Office of Archaeology and Historic Preservation -- \$1.5 million

Average Annual Historic Preservation Grant Budget:

Washington Historical Society – up to \$4 million of General Fund appropriations every two years.

Office of Archaeology and Historic Preservation -- \$125,000

Structure. The Washington State *Office of Archaeology and Historic Preservation* is housed in the *Department of Community, Trade, and Economic Development*. The Department is a cabinet-level agency managed by a Governor-appointed Director. The Director appoints the State Historic Preservation Officer.

The *Washington State Historical Society* and the *State Capital Historical Association* are designated in statute as the agencies that hold historical materials and sites in trust for the state. The governing boards of each society appoint their respective director with the consent of the Governor. The Washington Historical Society has 32 board members, elected from the membership, and the Governor, Secretary of State, Supervisor of Public Instruction, and representatives of each Caucus of the Legislature serve as ex officio members. The Directors of the historical societies serve as members of the State Advisory Council on Historic Preservation. The Washington Historical Society has a budget of approximately \$7 million every two years. Of that amount, 70 percent is from the General Fund, while 30 percent comes from donations and earnings.

The *State Advisory Council on Historic Preservation* is a panel of nine members appointed by the Governor. Qualifications are specified in statute, and include that one member must be a Native American. The Governor appoints the Chair.

Functions. The Office of Archaeology and Historic Preservation carries out the requirements of the national historic preservation program, including preparing state historic surveys and archaeological and historic preservation plans, certifying local governments to participate in the historic preservation program, and maintaining a cultural resources inventory.

The Office also administers a grant program for preserving properties that are significant in American or Washington state history, architecture, archaeology, and culture. Grant monies are apportioned according to the statewide archaeological and historic preservation plans.

The Advisory Council on Historic Preservation reviews and recommends nominations to the National Register. It also advises the Governor and the Department on matters relating to historic preservation.

The State Historical Societies have the following duties as prescribed in statute:

- Collect, catalogue, interpret, and exhibit objects, sites, and other historic materials;
- Operate state museums and encourage historical and museum interpretive efforts throughout the state;
- Engage in cultural, artistic, and educational activities to carry out the purposes of the society;
- Plan for and conduct celebrations of significant events in the history of the state;
- Create membership classes in the societies;
- Engage in appropriate fund raising activities to increase the self-support of the societies;
- Accept gifts, grants, conveyances, bequests, and devises of real or personal property in trust or otherwise, and sell, lease, exchange, invest, or expend the same or the proceeds, rents, profits, and income therefrom.

The *Washington State Historical Society* issues grants from the Capital Projects Fund, created in statute. The Historical Society, with input from the Office of Archaeological and Historic Preservation and an advisory committee, develops a priority list of projects that are presented in the Governor's Budget. The Legislature must appropriate the funds for the grants. Eligible projects are *not* limited to sites listed on the state or national register of historic places. In the past, individual grants have ranged from \$8,000 to \$500,000. The total amount of state funding for grants may not exceed \$4 million every two years (specified in statute).

3. FLORIDA

Florida has a substantial program for archaeological research, historic preservation, and promoting Florida folklife.

State Population: 15,892,000

Per Capita Income: \$28,023

Annual Budget for Division of Historical Resources: \$36 million

Average Annual Historic Preservation Grant Budget: \$21 million

Structure. Within the Florida *Department of State* is the *Division of Historical Resources*. The Division consists of three Bureaus (Bureau of Archaeological Research, Bureau of Historical Museums, and Bureau of Historic Preservation) located in Tallahassee, and three Regional Offices located in Delray Beach, St. Augustine, and Tampa. The Division currently has 130 employees (95 permanent and 35 temporary).

The Governor appoints a *State Historic Preservation Officer* (SHPO) who is recommended by the Secretary of State. (The Division's web site states that the Director serves as the SHPO.) The SHPO administers the national historic preservation program.

The *Historic Preservation Advisory Council* consists of 11 members: seven are appointed by the Governor in consultation with the Secretary of State; two members appointed by the Pro-Tem of the Senate; and two members appointed by the Speaker of the House. The Governor designates a member to serve as presiding officer. Members serve without pay but are reimbursed for expenses of attending meetings. Qualifications of the members are specified in statute as follows:

Of the seven members appointed by the Governor, one member must be a licensed architect who has expertise in historic preservation and architectural history; one member must be a professional historian in the field of American history; one member must be a professional architectural historian; one member must be an archaeologist specializing in the field of prehistory; and one member must be an archaeologist specializing in the historic period. The remaining two members appointed by the Governor and the two members appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, must be representatives of the general public with demonstrated interest in the preservation of Florida's historical and archaeological heritage. At least one member of the commission shall be a resident of a county that has a population of 75,000 or less.

Within the Division of Historical Resources are the *Florida Folklife Programs* and *Florida Folklife Council*. The Director of the Division of Historic Resources appoints a State Folklorist to run the Programs. Members of the Folklife Council are appointed by the Secretary of State for 4-year terms, and serve without compensation.

Functions. The *Division of Historical Resources* is responsible for promoting the historical, archaeological, museum, and folk culture resources in Florida.

The Division's responsibilities include:

- Maintaining a statewide inventory of historic resources;
- Developing a statewide historic resource plan;
- Identifying and nominating properties to the National Register of Historic Places;
- Advise, assist, and cooperate with federal, state, and local government entities in carrying out state and national historic preservation programs;
- Take actions necessary to protect, acquire, promote and conserve historic resources and foster an appreciation of Florida history and culture;
- Acquire and maintain for study and exhibit historic and archeological objects;

- Coordinate the state historical marker program, including maintenance of the Florida Register of Heritage Landmarks; and
- Establishing regional offices to deliver historic preservation services.

The *Historic Preservation Advisory Council* makes annual recommendations to the Secretary about projects that should receive grants. The Legislature must approve and allocate funds for the grants. Other duties of the Council include:

- Establishing priorities for historic and archaeological resource preservation, acquisition, identification, etc.;
- Providing an outreach program to encourage public participation in and understanding of the State's historic and archaeological sites and opportunities; and
- Preparing rules related to the historic preservation programs administered by the Division.

The *Bureau of Historic Preservation* identifies, evaluates, preserves, and interprets historic structures and properties. It receives federal funding from the Historic Preservation Fund through the National Park Service. It manages an historic preservation grants program and oversees development and placement of state historic markers. The Bureau also publishes heritage information and runs the Florida folklife programs.

Within the Bureau are four sections: architectural preservation, compliance review, grants and education, and survey and registration. The Grants and Education Section administers a program of grants for the rehabilitation and restoration of historic buildings, for the survey of historic resources, for excavation of archeological sites, and for preservation education programs. Some of its programs include:

- Grants of \$2 million/year in matching grants for basic historic preservation, interpretation, education, etc.;
- Grants of \$1.5 million/year for museum operations; and
- Special category grants for major historic restoration, archeological excavation, or museum exhibits. Grants range from \$50,000 to \$250,000 in recent years. Funding depends on the annual appropriations by the Legislature but has averaged \$10 million in recent years.

The *Grants and Education Section* also produces Florida Heritage Publications that describe particular aspects of Florida culture. Examples include the *Jewish Heritage Trail*, which documents the history of Jewish people in Florida from colonial times through the present. The *Black Heritage Trail* similarly documents the experience of African Americans in Florida. The Section also runs the *Florida Main Street Program*, which is intended to revitalize Florida's downtowns. It maintains a web site with

information, forms, and publications relating to historic preservation, grant funding, registering historic landmarks, etc.

The *Florida Folklife Programs* identify, research, interpret, and present Florida's folk arts, artists, performers, folklore, traditions, customs, and cultural heritage and make the folk cultural resources and projects available throughout the state. The state folklorist runs the Florida Folklife Programs and organizes an annual Florida Folk Festival at the Stephen Foster State Folk Culture Center. The Council advises the state folklorist on promoting Florida folklife, stimulating public interest and participation in the folk arts and folklore, and assists the state folklorist in developing proposals and grant applications to obtain funding for Florida Folklife Programs.

4. VERMONT

Vermont has an historic preservation program in conformance with the National Historic Preservation Act requirements. In addition, it has combined in one stand-alone agency the state's efforts to develop affordable housing, preserve agricultural lands and buildings, protect open space, and preserve other historic buildings and sites.

State Population: 609,000

Per Capita Income: \$25,892

Annual Historic Preservation Program Budget: \$2.1 million

Average Annual Historic Preservation Grant Budget: \$700,000

Structure. Within the *Department of Housing and Community Affairs* there is the *Division of Historic Preservation*. The Governor appoints a *State Historic Preservation Officer*, who is confirmed by the state Senate.

The *Advisory Council on Historic Preservation* consists of seven members, appointed by the Governor. At least four members must fulfill the professional requirements of the National Historic Preservation Act. Members serve three-year terms.

The *Vermont Housing and Conservation Board* is an independent, state-supported funding agency providing grants, loans, and technical assistance for developing affordable housing and conserving agricultural land, recreational land, and historic properties in Vermont. The Board consists of nine members, as follows:

- Five citizen members appointed by the Governor, to include an advocate for low income Vermonters and a farmer;
- The Commissioners of the state agencies of Agriculture, Housing and Community Development, and Natural Resources; and
- The Executive Director of the Vermont Housing Finance Agency.

Board members are confirmed by the state Senate, and serve three-year terms. The Board elects its chair and vice chair annually. It employs an executive director to administer and

manage the business of the Board. The *Vermont Housing and Conservation Trust Fund* is funded by annual appropriation from the State General Assembly and bond funds. It receives 56 percent of the revenue from the Vermont property transfer tax and any moneys appropriated by the General Assembly, or any other source, private or public, approved by the Board. Other funding comes from the federal government, mainly from the Housing and Urban Development Department.

Functions. The *Historic Preservation Division* and *SHPO* have the following duties:

- Undertake and maintain the state survey of historic properties and archaeological sites;
- Adopt standards for listing of an historic property on the state register consistent with the standards of the National Register;
- Prepare and maintain a state register of historic properties;
- Prepare a state historic preservation plan and update it annually;
- Cooperate with federal, state, and local government agencies in the planning and conduct of specific actions affecting historic properties and preservation objectives;
- Maintain and interpret state-owned historic properties; and
- Provide technical and financial assistance.

The *Division* may acquire, preserve, maintain, operate, or dispose of historic properties.

The *Advisory Council* has the following duties:

- Approve nominations to the state and national registers;
- Review and approve state survey of historic properties and the state preservation plan
- Approve the removal of properties from the state register;
- Recommend removal of properties from the National Register;
- Review and approve projects to receive federal and state grants for historic preservation;
- Provide an advisory and coordinating mechanism for discussing and resolving state undertakings that are potentially deleterious to historic preservation. The head of any state agency shall take into account the effect of the undertaking on any historic property on the state register, prior to approving state funds or state permits for the undertaking.

The *Vermont Housing and Conservation Board* (VHCB) makes grants or loans for projects that develop affordable housing and conserve important agricultural land, recreational land, natural areas, and historic properties. It has the authority to enter into cooperative agreements with private organizations or individuals or any agency of the federal or state government to carry out the purposes of the Vermont Housing and Conservation Trust Fund Act. It must seek out and fund non-profit organizations and municipalities that can assist any region of the state with high unemployment and low per-capita income in obtaining grants and loans for affordable housing. The Board must attempt to allocate its funds equally between affordable housing and open space/agricultural/historic preservation.

The Vermont legislature created the VHCB in 1987 and appropriated \$3 million into the Trust fund. In 1988, Vermont had a budget surplus and the Legislature appropriated \$20 million to the Trust Fund. Since its inception, the VHCB has awarded more than \$142 million to nonprofit housing and conservation organizations, towns, municipalities, and state agencies to develop 745 projects in 205 towns. According to the VHCB web site, this investment has “leveraged \$516 million from other private and public sources and resulted in the creation of 6,419 units of affordable housing, the conservation of more than 328,350 acres of agricultural and recreational lands and natural areas. Eighty percent of the housing awards have supported housing in historic buildings. Historic barns, farmhouses, or archaeological sites are located on 31 percent of farms conserved by VHCB funds.”

Currently, the VHCB has a \$1.8 million annual operating budget and a staff of 25. It awards \$20 - \$25 million annually for housing and land conservation projects.

5. NEW MEXICO

The *New Mexico Cultural Properties Act* creates a program to preserve “cultural properties,” which are “structures, places, sites, or objects having historic, archaeological, scientific, architectural, or other cultural significance.”

State Population: 1,819,000

Per Capita Income: \$22,063

Annual Historic Preservation Program Budget: \$560,000 federal grant

Average Annual Historic Preservation Grant Budget: \$100,000 to \$200,000

Structure. The *Office of Cultural Affairs* is responsible for preserving and celebrating New Mexico’s cultural treasures, overseeing the state museum system, arts, and historic preservation programs.

The Office includes the following cultural organizations:

- The Museum Division;
- New Mexico Museum of Space History;

- New Mexico Museum of Natural History and Science,
- New Mexico Farm & Ranch Heritage Museum;
- National Hispanic Cultural Center of New Mexico;
- New Mexico State Library;
- New Mexico Arts; and
- Historic Preservation Division.

The *State Historic Preservation Officer* is the Director of the Historic Preservation Division and is appointed by the Governor. Qualifications for the position are specified in statute, including a graduate degree in American history, anthropology, architecture or historic preservation, or at least 5 years of professional experience in these fields, or a substantial contribution through research and publication to the body of scholarly knowledge in these fields.

The *Cultural Properties Review Committee* consists of 7 members, including the State Historian, who have recognized expertise in their fields of archaeology, architecture, history, and the like, and who must have specialized knowledge of New Mexico. Other than the state historian, all members are appointed by the Governor. Members serve without compensation but may be reimbursed for travel expenses. The membership elects a chair, vice chair, and secretary to serve annual terms.

Functions. The *Museum Division* is responsible for administering, developing, and maintaining all registered cultural properties in its ownership or custody. The Division may seek and accept gifts, donations, and grants to acquire, preserve, or restore registered cultural properties. It may acquire, by condemnation if no other means are possible, any cultural property or interest therein sufficient to preserve such property

The *Historic Preservation Division* identifies and records prehistoric and historic places, nominates them to the National Register of Historic Places and the State Register of Cultural Properties, and maintains records of those places. It carries out the national historic preservation program requirements. The Division also administers tax credit, low-interest loan, easement, and grant programs to encourage preservation of cultural properties. It provides preservation-related technical assistance to agencies, local governments, and private property owners.

The *Historic Preservation Officer* administers the Cultural Properties Act and coordinates with the Museum Division, as well as any other entities involved with cultural properties.

The *Cultural Properties Review Committee* serves as a policy-making/advisory board for historic preservation in New Mexico. The Committee meets six times a year, to consider the nominations of historic properties for inclusion in the national register of historic places and the state Register of cultural properties, applications for tax credits, state land archeological permit applications, nominations of Heritage Preservation Awards, and

other matters within the Committee's powers and duties, described in statute. The Committee maintains the official register of historical and cultural properties.

6. UTAH

State Population: 2,233,000

Per Capita Income: \$23,356

Annual Historic Preservation Program Budget: \$3.13 million

Average Annual Historic Preservation Grant Budget: varies with revenues to Historical Society, general fund appropriation, and federal grant money. Current year federal grant funds are approximately \$140,000.

Structure. The Utah *Department of Community and Economic Development* houses a number of programs that support the arts, education, and culture in Utah. It also contains the entities that promote business and economic development in the state. Within the Department are the Utah Arts Council, the Division of Indian Affairs, the Office of Museum Services, the *Division of State History*, the State Library Division, the Utah Online Library, and the Commission on Volunteers. The Governor appoints the Executive Director of the Department, with confirmation by the state Senate.

The *Division of State History* contains the *Utah Historical Society*, which is described in statute as the "authority of the state for state history." The Executive Director of the Department appoints the Division Director.

The *Board of State History* consists of 11 members appointed by the Governor, and confirmed by the state Senate. No qualifications are specified in statute other than satisfying federal requirements for an adequately qualified state historic preservation review board. The Governor selects the Chair and Vice-Chair of the Board.

Functions. The Division's duties include:

- Stimulating research and study of Utah history;
- Maintaining a history library;
- Marking and preserving historic sites and remains, including archaeological sites;
- Collecting and preserving state historical records;
- Collecting, preserving, and exhibiting historical artifacts and other materials relating to Utah history;
- Editing and publishing historical records;
- Providing grants and technical assistance "as necessary and appropriate;" and

- Promoting heritage tourism in the state. In particular, the Division must create and maintain an inventory of all historic markers and all active and inactive cemeteries in the state, as well as a database of cemeteries and burial locations in a publicly-accessible information system.

Most of these responsibilities are carried out by the *Utah Historical Society*. The Society publishes books, journals, and CDs about Utah history. It owns and maintains the collections of historic photos, books, newspapers, and journals. It also maintains the databases of state historic markers and burial sites.

The *Board of State History* is responsible for making policies to direct the Division Director, approving Division rules, and functions as the Board for the *Utah Historical Society*. The Board recommends historic sites for listing on the state and national registers and functions as the state review board for the national historic preservation program.

The Division of State History is the State Historic Preservation Office, and carries out the programs of the National Historic Preservation Act. It is also a partner in the *Community Cultural Heritage Coordinating Council*, which gives financial assistance to “Heritage Areas and Corridors.” The Heritage Area program grants aim to “promote heritage tourism, heritage economic development, and preserve quality of life.” The Division manages the state’s *investment tax credits* for historic residential properties (owner-occupied and rental). The credits consist of non-refundable state income tax credits for the rehabilitation of historic residences. Twenty percent of all qualified rehabilitation costs may be deducted from state income or corporate franchise taxes.

The Division administers the *Utah History Endowment Fund*. The Fund provides grants to qualifying organizations to create their own endowment funds. There are also a variety of small grant programs for historic preservation or education projects, as well as the grants to Certified Local Governments using federal historic preservation funds. In the current fiscal year, approximately \$140,000 will be available in grants to local governments.

Trust Models

1. BRITISH NATIONAL TRUST

The Trust is a charity, independent of the Government. It was founded in 1895 to preserve places of historic interest or natural beauty in perpetuity. Funding comes from subscribers, gifts, legacies, and volunteer efforts. The Trust has statutory power to declare land “inalienable” – that is, it cannot be voluntarily sold, mortgaged, or purchased against the Trust’s wishes without special Parliamentary procedure. The power is given by the National Trust Act of 1907 and applies only to land owned by the Trust.

Land held for preservation is usually declared inalienable after it is acquired. Once so declared there is no mechanism to 'un-declare' it and the presumption is that the Trust will hold it in perpetuity. Inalienability gives protection from compulsory purchase powers held by many government departments. So if, for example, the Highways Agency wants to buy land to build a road across Trust property, the Trust can object and if necessary have the matter referred to Parliament for consideration by a special parliamentary procedure.

More than 200 historic houses and gardens, and 49 industrial properties and mills are owned by the Trust. These places are protected and open to the public. In addition, the Trust owns more than 612,000 acres of countryside and almost 600 miles of coastal property, all of which is open to the public. All Trust income is spent on care and maintenance of the buildings and land in its protection, but is insufficient to meet its obligations and most buildings run at a loss.

The National Trust is governed by a Council. Twenty-six members are elected by the membership and 26 are appointed from kindred organizations, which are designated by Parliament. The Council sets the general policy of the Trust, including:

- Principles for acquiring property;
- Principles of governing public access to the properties;
- Standards for amenities to be provided at properties;
- Standards for restoration, modernization, and upkeep of the properties;
- Regional boundaries and the appointment of chairmen to the Regional Committees, including Committees for Wales and Northern Ireland.

An Executive Committee, most of whom are Council members, carries out most of the daily responsibilities of running the Trust. The Executive Committee appoints members to the Properties Committee, the Finance Committee, and Regional Committees.

The Finance Committee supervises all financial matters of the Trust and makes recommendations to the Executive Committee.

The Properties Committee reviews the policies and practices on the maintenance, conservation, and presentation of Trust properties and makes recommendations to the Executive Committee on these matters, on resolutions of inalienability, and for new acquisitions.

The role of Regional Committees is to bring to the work of the Trust an awareness of the need for local emphasis in applying national policies and a feeling of regional diversity.

2. THE NATIONAL TRUST FOR HISTORIC PRESERVATION

The National Trust is a private, non-profit organization with more than 250,000 members. Founded in 1949, it operates a collection of 21 National Historic Trust Sites that are open to the public. It also runs a variety of programs to promote historic preservation and assist local historic preservation efforts. Its funding comes from membership dues, merchandise sales, and special contributions. It also receives corporate and foundation grants as well as endowment income.

The policies of the National Trust are directed by its Board of Trustees and carried out by the President. The Trust has a number of programs, including:

- Statewide and Local Partnerships Program, to strengthen the capacity of statewide non-profit preservation organizations through mentor relationships, workshops, technical assistance, and other support;
- The annual National Preservation Conference, which attracts several thousand people, and the Preservation Leadership Training, a week-long seminar for community preservationists;
- Heritage Tourism, with training and technical assistance for communities to develop their heritage tourism possibilities;
- Rural Heritage, which promotes preservation in rural areas;
- Stewardship of historic sites, including the Trust's 20 Historic Sites and a new program of Associate Sites that are not owned by the Trust; and
- Save America's Treasures, which is a joint effort with the National Parks Service to protect the nation's threatened cultural treasures such as documents, works of art, maps, journals, and historic structures that document the history and culture of the United States. This program uses federal and private funding.

The National Trust also operates a "Gifts of Heritage Program." This planned giving program solicits gifts of architecturally or historically significant properties. The Trust then sells the properties with restrictions, such as deed restrictions or conservation

easements, to protect them in perpetuity. The local partners perform annual monitoring to ensure that the new owners conform with the restrictions, including public access requirements. Proceeds from the sale of such properties are used to benefit the Trust.

3. NEW JERSEY HISTORIC TRUST

New Jersey has a statewide historic trust that operates several programs to preserve historic resources. Funding assistance is limited to local governments or qualified non-profit organizations.

Structure. In 1998, the voters of New Jersey approved a constitutional amendment to create the *Garden State Preservation Trust*, which is charged with preserving open space, agricultural lands, and historic resources. New Jersey voters also approved \$1 billion in bond funds to carry out the various programs of the Garden State Preservation Trust, as well as an annual appropriation of \$98 million annually from the General Fund for 10 years, all of which is specified in the constitutional amendment. The Garden State Preservation Trust (GSPT) provides funding for and reviews the grant-making recommendations of the *New Jersey Historic Trust*, the Green Acres Program (for open space preservation) and the New Jersey Farmland Preservation Program. It then forwards the grant recommendations to the Legislature for appropriations.

The GSPT is “a public body corporate and politic,” with “corporate succession,” located “in but not of” the Department of the Treasury. The enabling statute makes the GSPT independent of any supervision by the Department or by any board or officer thereof. The GSPT is declared to be “an instrumentality of the State, exercising public and essential governmental functions, no part of whose revenues shall accrue to the benefit of any individual, and the exercise by the trust of the powers conferred [by this act] shall be deemed and held to be an essential governmental function of the State.” Nine voting members comprise the GSPT, including four ex-officio members (the Secretaries of Agriculture and State, the State Treasurer, and the head of the Department of Environmental Protection), and five public members. The public members are appointed by the Governor (1), the President of the Senate (2), and the Speaker of the General Assembly (2). No person holding elective office may be a member of the GSPT. Employees of the GSPT are exempt from civil service.

The GSPT has the authority to issue bonds (up to \$1 billion), make contracts, issue regulations and rules, receive grants, appropriations, and other monies, and obtain bank loans to carry out its purposes. In addition to its \$98 million annual appropriation from the General Fund, the GSPT receives up to \$98 million to pay for principle and interest payments on its bonds. Of its annual appropriation and bond money, the GSPT dedicates \$6 million to the *New Jersey Historic Trust*; 60 percent of the remaining amount goes to the Green Acres Open Space Program, and 40 percent goes to the Farmland Preservation Program.

The *New Jersey Historic Trust* was established in 1967 by an amendment to the New Jersey constitution. The Historic Trust is governed by a 15-member board of trustees. Twelve members are appointed by the Governor, and serve without compensation. Three

members serve ex-officio, including the State Treasurer, the head of the Department of Environmental Protection, and the Secretary of State. The Historic Trust is “affiliated” with the Department of State.

Function. The New Jersey Historic Trust will receive \$6 million annually for the next ten years (from the GSPT Fund) to issue preservation grants. Funding is limited to local governments or qualified non-profit organizations. The Historic Trust prepares an annual list of projects recommended for funding, which it submits to the GSPT for review and approval. The GSPT may delete projects from, but not add to, the list of projects, and then forward the approved list to the Legislature and Governor for an annual appropriation.

The Historic Trust also issued \$52 million in “brick and mortar” grants from a bond program that was created in 1987. The Trust also issues low interest revolving loans, carries out a preservation easement program, and accepts donations of real estate through its “New Jersey Legacies Program,” a joint venture with the National Trust for Historic Preservation.

California Coastal Conservancy

The Coastal Conservancy resides within the Resources Agency, but is a largely independent body that acquires coastal property, restores wetlands and riparian areas in coastal watersheds, and creates public access to the coast.

Structure. The Conservancy consists of seven members, including the chair of the Coastal Commission, the Secretary of the Resources Agency, the Director of Finance, four members of the public (two appointed by the Governor, and one each appointed by the Senate Rules Committee and the Speaker of the Assembly). The Secretary of Resources selects one of the public members to serve as the chairperson. The Conservancy appoints an executive officer, who is exempt from civil service. It has other staff as necessary to carry out its duties.

There is a Legislative Oversight Committee, consisting of three members of the Senate and three members of the Assembly. The Committee meets with the Conservancy and participates in its discussions of projects. This is advantageous to the Conservancy in dealing with the Legislature, and enables the Conservancy to obtain lump sum appropriations, for the most part, rather than individual project appropriations.

The Conservancy has a staff of 66 and current annual operating budget of about \$5.4 million. Although it is a small organization, it has in-house legal counsel, accountants, and contract managers. With all the administrative and program staff located together on one floor of one building, the Conservancy is able to act quickly to enter contracts or issue grants.

Project funding comes from bonds, as does most of the operating budget. In 1998-99 the Conservancy received \$25 million in general fund revenues. As a result of the Proposition 40 bond, the Conservancy will receive \$240 million to spend on projects, and a portion will be available for operating expenses.

Function. The Conservancy has the responsibility for protecting agricultural lands, restoring coastal lands, and enhancing resources in the coastal zone. It may award grants to local governments and non-profit organizations for land acquisition or enhancement or restoration. It may also award grants for preparing coastal restoration plans. Funds expended or granted to achieve these goals must be appropriated by the Legislature.

The Conservancy may apply for and accept federal grants and receive gifts, donations, rents, royalties, and other financial support from public and private sources. The Conservancy may acquire property, and may accept dedication of fee title, easements, development rights, or other interests in lands, including interests required to provide public access to the coastal zone. The power of eminent domain may be used to acquire lands. Lands may be leased, sold, or exchanged, and proceeds from such transactions are to be available to the Conservancy when appropriated by the Legislature.